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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,150	06/25/2003	Birgit K. Jaitner	59516-275/PP-18707.002.	1248

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EXAMINER	
MCGARRY, SEAN	

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
05/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/609,150	**Applicant(s)** JAITNER ET AL.	
	Examiner Sean R. McGarry	**Art Unit** 1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *5 and 11*.
   Claim(s) rejected: *1-4,6,8-10 and 17-19*.
   Claim(s) withdrawn from consideration: *7,12-16 and 20-23*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Sean R McGarry
Primary Examiner
Art Unit: 1635

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments have been considered but they fail to place the instant application in condition for allowance. Applicant argues that that "specific hybridization" defines over the prior art. It is noted again that the instant specification has no specific definition for "specific hybridization" . Applicant argues the "art-recognized definition of 'specific hybridization'" excludes the applied art but fail to provide any evidence to support their assertion of the "art recognized definition". Applicant asserts that the term is not dependent on conditions and assert also rely on McKay in their arguments. It is noted that McKay at applicants cite does indded indicate that specific hybridization is dependent on conditions. For example McKay state ". . . there is a sufficient degree of complementarity to avoid non-specific binding of the antisense compound to non-target sequnces under conditions in which specific binding is desired, i.e., undr physiological conditions in the case of in vivo assays or therapeutic treatment, and in the case of in vitro assays, under the conditions in which the assay is performed." It is noted that the examiner has properly placed the nurden on applicant to show that the applied oligonucleotides will not function as the claimed invention requires. It is noted also that Applicant arguments of "specific binding are even further off point in the claims that do not require the targeting of , for example, SEQ ID NO: 1, but only a Sos1 target, such as SEQ ID NO:5 of the prior art [5,656,595]. Applicant asserts that the prior art covers only one third of the recited SEQ ID NO: 1 and can not teach the entire scope of the invention. It is noted that it is not required that the entire scope be made obvious or anticipated and also that applicants invention is not limited only to SEQ ID NO:1. It is noted that claims 18 and 19 are not limited to oligonucleotides that comprises SEQ ID NO: 2 or 3, but only are required to contain "contiguous nuceotides of SEQ ID NO:2 or 3" where it is reasonable to assert that a 2 or 3 nucleotide portion of SEQ ID NO: 2 or 3 would be sufficient to meet the claim limitation. It is noted that any rejection over claims 5 and 11 would be withdrawn upon the entry of the amendment, but these claims would be objected to as depending from a rejected claim. It is also noted that claim 1 recites withdrawn subject matter and claim 8 is no longer a linking claim .